

EXHIBIT 1

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF VIRGINIA
3 ALEXANDRIA DIVISION

4 ROSY GIRON DE REYES,)
5 et al,) Civil 16-563
6 Plaintiffs,)
7 v.)
8 WAPLES MOBILE HOME PARK) Alexandria, Virginia
9 LIMITED PARTNERSHIP,) September 23, 2020
et al,)
Defendants.)
_____)

10 TRANSCRIPT OF MOTION HEARING
11 VIA ZOOM

12 BEFORE THE HONORABLE T. S. ELLIS
13 UNITED STATES DISTRICT JUDGE

14
15 APPEARANCES:

16 For the Plaintiffs: Simon Yehuda Sandoval-Moshenberg
17 Gianna Puccinelli
18 Nady Peralta
Matthew Traupman

19 For the Defendants: Michael Sterling Dingman
20 Grayson Hanes
21 Justin deBettencourt
Grayson Hanes

22 Court Reporter: PATRICIA A. KANESHIRO-MILLER, RMR, CRR
23

24 Proceedings reported by stenotype shorthand.
25 Transcript produced by computer-aided transcription.

1 Circuit suggested? Is that the plaintiffs' position?

2 MS. PUCCINELLI: No, Your Honor. Plaintiffs contend
3 that we should only be proceeding to trial on the disparate
4 impact theory of the Fair Housing Act claim.

5 THE COURT: All right. And as to that, it's the
6 position of the plaintiffs that it should proceed to trial on
7 all three steps of the analysis as identified by the Fourth
8 Circuit?

9 MS. PUCCINELLI: That is correct, Your Honor.

10 THE COURT: All right. Now, with respect to the
11 arguments that I have heard, you might reiterate, just to
12 refresh my recollection, what is the plaintiffs' position on
13 the effect, if any, of the anti-harboring statute on the
14 plaintiffs' claim in this case?

15 MS. PUCCINELLI: Your Honor, plaintiffs' position is
16 that the anti-harboring statute has no place in the analysis
17 on step one. The Fourth Circuit's -- the Fourth Circuit's
18 opinion clearly states, under the first step, the plaintiff
19 must demonstrate a robust causal connection between the
20 defendants' challenged policy and the disparate impact on the
21 protected class. And it goes -- the Fourth Circuit goes on
22 to identify how plaintiffs have done that. And that's either
23 through statistical evidence or other evidence that
24 specifically links the policy at issue with a
25 disproportionate impact on the protected class. And

1 instructed to consider whether defendants actually relied on
2 the anti-harboring statute as a justification for creating
3 the policy and applying it in this case to our plaintiffs.

4 In other words, whether it is pretextual --

5 THE COURT: Why couldn't they have --

6 MS. PUCCINELLI: Sorry, Your Honor.

7 THE COURT: Well, all right. It's puzzling to me, if
8 there is any basis for the application of the anti-harboring
9 statute -- there may not be -- I will go back and look at
10 what I have written -- but I'm not sure that if they didn't
11 rely on the anti-harboring statute and it really came up in
12 the course of the litigation rather than in their formulation
13 of the policy, why couldn't they still say, look, that is
14 still a consideration, we didn't realize we'd be put in jail
15 but now we do.

16 MS. PUCCINELLI: Well, Your Honor, that turns to a
17 question of whether, under the application of that law, that
18 they would validly be, as you said, put in jail for violating
19 the anti-harboring statute.

20 But I do think --

21 THE COURT: Yes, but my problem there,
22 Ms. Puccinelli, is that juries don't decide that sort of
23 thing; judges do. I think you will agree, as I think is
24 indisputable, that the anti-harboring statute really played
25 no role in the Fourth Circuit's analysis.